

Notice of Allowability

Application No.

10/799,653

Examiner

Nicholas D. Rosen

Applicant(s)

KIMURA ET AL.

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the communications of May 30, 2008.
2. ☒ The allowed claim(s) is/are 45 and 46.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/244,050.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Nicholas D. Rosen/
Primary Examiner, Art Unit 3625

DETAILED ACTION

Claims 45 and 46 have been examined.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 30, 2008 has been entered.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorney Shrinath Malur on July 16, 2008.

The application has been amended as follows:

On page 1, line 25, "<http://www.ascii.co.jp/hirai/>" is hereby amended to read, "(http colon double slash www dot ascii dot co dot jp slash hirai slash)".

On page 2, line 6, “(On page 1, line 25, “(<http://shop.aplix.co.jp/shops/apjapan>)” is hereby amended to read, “(http colon double slash shop dot aplix dot co dot jp slash shops slash apjapan)”.

On page 2, line 12, “(<http://www.buydirect.com>)” is hereby amended to read, “(http colon double slash www dot buydirect dot com)”.

Allowable Subject Matter

Claim 45 is allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art of record, Arnold (U.S. Patent 6,289,452), discloses a digital contents sales method for selling digital contents in a digital contents sales apparatus for transmitting the digital contents to a user via a network, the method comprising the steps of: receiving, from a user via the network, an input for indicating purchase of first digital contents; storing in a digital contents personal using condition management table in the digital contents sales apparatus, a first digital contents personal using condition including first identification information of said purchased first digital contents and information of personal using conditions of said first digital contents to said user; in response to an input of identification information of said user, searching, from said digital contents personal using condition management table, at least said first digital contents personal using condition corresponding to said identification information of said user; and transmitting a BOB (Bag of Bits) (i.e. first digital contents) to the user via the network (column 5, line 37, through column 6, line 39). Arnold does not disclose that

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the BOB is or comprises a personal using condition list page, but Benson et al. (U.S. Patent 5,845,281) teaches generating a set of personal using conditions which may be specific to a user and therefore involve user identification, and having it included in a data object of digital contents (Abstract; column 5, lines 16-46).

Arnold does not expressly disclose receiving from the user via the network a request for retransmitting one of the digital contents displayed in the personal using condition list page, and retransmitting said digital contents requested, but Arnold does disclose attempting to retransmit the digital contents if the download be interrupted (column 6, lines 29-34); also, Haff (U.S. Patent 6,219,669) teaches that if the transfer of a file is interrupted, the receiving machine informs the sending machine (column 7, lines 7-15; column 28, lines 14-26). However, neither Arnold, Haff, nor any other prior art of record discloses retransmitting said digital contents requested, only if a digital contents personal using condition corresponding to the digital contents requested is valid. It is known to transmit data only to those validated as proper users (people who have paid subscription fees, people cleared to receive secrets, etc.), but this is not the same as the specific condition for retransmission recited.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claim 46 is allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art of record, Arnold (U.S. Patent 6,289,452), discloses a digital contents sales method for selling digital contents in a digital contents sales apparatus for transmitting the digital contents to a user via a network, the method comprising the steps of: receiving, from a user via the network, an input for indicating purchase of first digital contents; storing, in a digital contents personal using condition management table in the digital contents sales apparatus, a first digital contents personal using condition including first identification information of said purchased first digital contents and information of personal using conditions of said first digital contents to said user; and transmitting a BOB (Bag of Bits) (i.e. first digital contents) to the user via the network (column 5, line 37, through column 6, line 39). Arnold does not disclose that the BOB is or comprises a personal using condition list page, but Benson et al. (U.S. Patent 5,845,281) teaches generating a set of personal using conditions which may be specific to a user and therefore involve user identification, and having it included in a data object of digital contents (Abstract; column 5, lines 16-46). Arnold does not expressly disclose that a physical act restriction is built into the personal using condition, but Benson teaches such a physical act restriction built into personal using conditions for digital contents (column 15, lines 1-14).

Arnold does not expressly disclose receiving from the user via the network a request for retransmitting one of the digital contents displayed in the personal using condition list page, and retransmitting said digital contents requested, but Arnold does

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disclose attempting to retransmit the digital contents if the download be interrupted (column 6, lines 29-34); also, Haff (U.S. Patent 6,219,669) teaches that if the transfer of a file is interrupted, the receiving machine informs the sending machine (column 7, lines 7-15; column 28, lines 14-26). However, neither Arnold, Haff, nor any other prior art of record discloses retransmitting said digital contents requested, only if a digital contents personal using condition corresponding to the digital contents requested is valid. It is known to transmit data only to those validated as proper users (people who have paid subscription fees, people cleared to receive secrets, etc.), but this is not the same as the specific condition for retransmission recited.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wiser et al. (U.S. Patent 6,385,596) disclose a secure online music distribution system, involving retransmission. (Wiser's priority date is February 6, 1998, the same as Applicant's foreign priority date, making Wiser not quite prior art, but the patent is made of record for completeness.)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith, can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas D. Rosen/
Primary Examiner, Art Unit 3625
July 17, 2008